

PATENT
Attorney Docket: 056159-5261

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **John W. Chapman et al.**) Confirmation No. **6003**
Application No. **10/539,229**)
Filed: **April 27, 2006**) Group Art Unit: **1656**
For: **Preparation of Antifreeze Protein**) Examiner: **David J. Steadman**

DECLARATION UNDER 37 C.F.R. 1.131

We, John W. Chapman, Teun Van Der Laar, Nigel Malcolm Lindner, and Christian Visser, declare as follows:

1. That we are listed as co-inventors for the above invention.
2. That we are familiar with the specification and the pending claims of U.S. Patent Application 10/539,229. We have reviewed the Office Action dated October 8, 2010. We have also read the cited references used to allege that the claimed invention is obvious, including the references of Ng (U.S. 2002/0068325) and Gentzsch (1995) FEBS Lett. 377: 128-130.
3. In addition to U.S. Patent Application 10/539,229, John Chapman is also an inventor of the cited "Chapman" reference (WO 97/02343 or PCT/EP96/02936) as set forth in the Office Action dated October 8, 2010. That reference describes the invention of the type III antifreeze protein (AFP) and producing the type III AFP in yeast. This protein was functional when expressed in wild-type yeast.
4. We understand that the reference of Ng was published on June 6, 2002 less than one year before the priority date of the captioned application.
5. The subject matter of the claims was invented at least before June 6, 2002. As evidence of the invention to produce type III AFP in pmt1 and/or pmt2 deficient yeast, attached is an invoice sent to Dr. Chapman from Scientific Research & Development GmbH. The invoice is dated May 5, 1999.

6. As detailed in the contents of the attached invoice, Scientific Research & Development GmbH prepared under our direction strains of *Saccharomyces cerevisiae* that were deleted for, amongst other genes, *pmt1* and *pmt2*. As disclosed in the invoice, the *pmt1* and *pmt2* deletion strains were delivered on October 15, 1998. At this time, experiments were undertaken to produce type III AFP in these *S. cerevisiae* mutants described in the invoice, the results of which are described in Example 2 to 5 of the present application. These results were obtained at least prior to publication of the Ng reference on June 2, 2002.

7. Accordingly, Applicants were in possession of the methods of the invention as set forth in the pending claims. Further, this event occurred prior to the publication date of the Ng reference.

8. We further declare that all statements made herein of our own knowledge are true, and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 26-03-2011

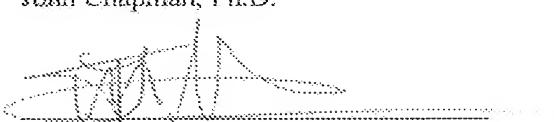
By:



John Chapman, Ph.D.

Date: 21-04-2011

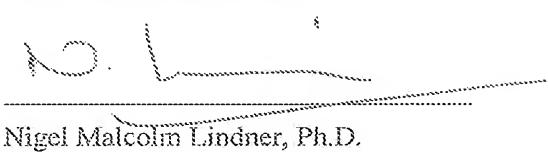
By:



Teun Van Der Laar, Ph.D.

Date: 29-05-2011

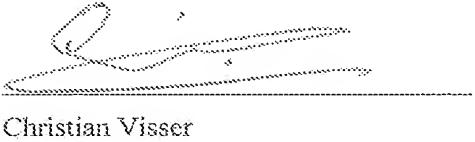
By:



Nigel Malcolm Lindner, Ph.D.

Date: 12-05-2011

By:



Christian Visser

Scientific Research & Development GmbH

Gesellschaft für Wissenstransfer, Entwicklung und Forschungsorganisation
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Dr. John Chapman
Unilever Research Vlaardingen
Biotechnology Group
Postbus 114
3130 AC Vlaardingen

Netherlands

Invoice-No.	Reference	Date
R05-99.54	order-nr./date: 4500021989/26.8.98	05.05.99

VAT Identification number NL 003870820B67

We kindly ask you to balance the following invoice:

Cost for deletion the following 5 genes(*PMT1*, *PMT2*, *PMT4*, *GDH3* and *PMI40*) and construction of the *gdh1 gdh3* double deletion, administration and mailing of the following *Saccharomyces cerevisiae* strain(s):

delivery date: 15.10.98

strain name	mating type	URA3	HIS3	LEU2	TRP1	MAL2	SUC2	deletion(s)
CEN.PK338	MATa	ura3-52	HIS3	leu2-3,112	TRP1	MAL2-8°	SUC2	gal1::URA3 pmt1(201,2350)::loxP
CEN.PK339	MATa	ura3-52	HIS3	leu2-3,112	TRP1	MAL2-8°	SUC2	gal1::URA3 pmt2(50,2229)::loxP
CEN.PK340	MATa	ura3-52	HIS3	leu2-3,112	TRP1	MAL2-8°	SUC2	gal1::URA3 pmt4(90,2289)::loxP
CEN.PK328-3C	MATa	URA3	HIS3	LEU2	TRP1	MAL2-8°	SUC2	gdh3(41,1310)::loxP
CEN.PK328-18B	MATa	URA3	HIS3	LEU2	TRP1	MAL2-8°	SUC2	gdh1(209,1308)::loxP gdh3(41,1310)::loxP

delivery date: 07.05.99

strain name	mating type	URA3	HIS3	LEU2	TRP1	MAL2	SUC2	deletion(s)
CEN.PK387-1D	MATa	ura3-52	HIS3	leu2-3,112	TRP1	MAL2-8°	SUC2	gal1::URA3 pmi40(291,1140)::loxP

price per deletion strain 5000,00 DEM

price for construction double deletion 500,00 DEM

amount to be balanced 25500,00 DEM

VAT Identification Number SRD GmbH: DE 17 456 8045

Please transfer the amount of 5000,00 DEM to **account No. 19 000 460 at Taunus Sparkasse (BLZ 512 500 00)** by using **SWIFT code: HELA DE SS**

Thank you very much for considering our service.